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DEPARTMENT OF ENVIRONMENTAL QUALITY  
DIVISION OF WATER QUALITY

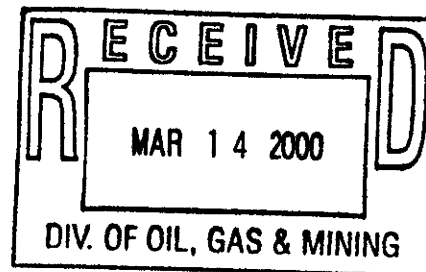
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Executive Secretary

March 7, 2000

**CERTIFIED MAIL**  
(Return Receipt Requested)

Gene Webb, Manager  
North Lily Mining Company  
1800 Glenarm Place, Suite 210  
Denver, Colorado 80202



Dear Mr. Webb:

Subject: Notice of Violation and Order, Docket No. UGW20-04, Violation to Order No. UGW2003 and Continued Failure to Maintain Discharge Minimization Technology (DMT)


The Utah Water Quality Board issued North Lily a Notice of Violation and Order No. UGW2003 on October 19, 1999. As a result of North Lily's written response to that Order and findings from inspections conducted by representatives from the Divisions of Water Quality and Oil, Gas and Mining, this additional Order is hereby issued. Transmitted herewith is a Notice of Violation and Order, Docket No. UGW20-04, from the Utah Water Quality Board for your immediate attention. This Order is a result of continued failure to maintain DMT in solution ponds and for violating Order No. UGW2003. The violations are described in the attached document.

We are strongly recommending your immediate attention to this matter as conditions at your site have deteriorated to the point that water resources are under an immediate threat. Delays or failure to address this situation will result in further action by this office. Prompt submittal of documents according to the schedule in the enclosed Order is required. You may contact us after you have had a chance to review this Order to arrange a meeting to discuss this Order if desired.

If you have any questions or wish to discuss this Order, please contact Beth Wondimu of this office at (801) 538-6084.

Sincerely,

Utah Water Quality Board

  
Don A. Ostler, P.E.  
Executive Secretary

DAO:BW/sal

Enclosure (1)

cc: Central Utah Health Department (W/encl)  
Dianne Nielson, Executive Director, DEQ (W/encl)  
Fred Nelson, Assistant Attorney General (W/encl)  
Roger Foisy, District Engineer (W/encl)  
Wayne Hedberg, Division of Oil, Gas and Mining (W/encl)  
Tom Bingham, Mining Association of Utah (W/encl)

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## UTAH WATER QUALITY BOARD

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IN THE MATTER OF	§	DOCKET NUMBER UGW20-04
NORTH LILY MINING COMPANY	§	NOTICE OF VIOLATION
EUREKA, UTAH 84628	§	AND ORDER
	§	

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### STATUTORY AUTHORITY

The **UTAH WATER QUALITY BOARD** (hereinafter "the **BOARD**") issues this Notice of Violation and Order under the *Utah Water Quality Act* (the *ACT*) including Sections 19-5-104, 19-5-106, 19-5-107, 19-5-111 and 19-5-115, *Utah Code Annotated (UCA)*, and in accordance with the *Utah Administrative Procedures Act, UCA 63-46b-1, et seq.*

### FACTS

1. **North Lily Mining Company** (hereinafter **NORTH LILY**) owns the Silver City Heap Leach Facility. Active leaching of the ore at the facility was terminated in 1995.
2. Ground Water Discharge Permit No. UGW230001 was issued by the Executive Secretary of the BOARD on December 9, 1997 which requires:
  - A. Maintenance of liner systems in the heap leach pad and in all three solution ponds (pregnant pond, barren pond and overflow pond). (Part I.B.5)
  - B. Water level in solution ponds to not exceed a free board of two feet from the top of the pond. (Part I.B.5)
  - C. The leakage rate in the liner systems be 200 gallons per acre per day or less in the heap leach pad and in the solution ponds to demonstrate Discharge Minimization Technology(DMT) performance. (Part I.B.5)
  - D. Semi-annual sampling of the heap leach effluent be performed by a laboratory certified by the State of Utah in accordance with UAC R317-6-6.3 (12). (Part I.C.1)
  - E. Analytical results of heap leach effluent sampling, for parameters listed in Part I.C, be

reported to Utah Division of Water Quality semi-annually according to the schedule listed under Part I.E.1 of the permit.

- F. Monthly visual inspection be conducted of the leak detection system for the presence of fluids. If fluids are present in the system, the permit requires the volume of fluid to be measured and reported to the DWQ quarterly . (Part I.C.3)

3. Groundwater Discharge Permit UGW230001, Part I.D.1, states

“....In the event the permittee fails to maintain the Heap Leach Pad Cover or the Lined Drain field in compliance with any of the requirements of Part I.B.4 of this permit the permittee shall be in violation of this permit unless the affirmative defense provisions of Part III.G are satisfied. The permittee shall submit to the Executive Secretary a notification and description of the failure in accordance with Part II.I 1 and 2.”

4. UCA 19-5-107 (1)(a) states “ Except as provided in this chapter or rules made under it, it is unlawful for any person to discharge a pollutant into waters of the state or to cause pollution which constitutes a menace to public health and welfare, or is harmful to wildlife, fish or aquatic life, or impairs domestic, agricultural, industrial, recreational, or other beneficial uses of water, *or to place or cause to be placed any wastes in a location where there is probable cause to believe it will cause pollution.*”

5. A Notice of Violation and Order Docket No.UGW2003 was issued to **NORTH LILY** on October 19, 1999, for failure to maintain Discharge Minimization Technology (DMT) in its solution ponds and failure to meet reporting requirements resulting in non-compliance with Ground Water Discharge Permit, UGW230001.

6. The NOV and Order Docket No. UGW2003 issued by the BOARD required:

- a. Submittal of plans and specifications and a schedule for Executive Secretary Approval to restore Discharge Minimization Technology in all solution ponds and heap leach pads including Quality Assurance/Quality Control (QA/QC) specifications.
- b. Not placing heap leach effluent in the overflow pond unless the liner system in the pond is restored including the overflow structure. **NORTH LILY** was required to obtain approval from the Executive Secretary before the overflow pond was placed back in service.
- c. Developing and submitting a water management plan proposing methods to dispose of excess water from the heap leach pad.
- d. Submittal of complete time lines of all closure activities planned including the beginning and conclusion of various phases of the project for Executive Secretary

approval.

7. On November 10, 1999, representatives of **NORTH LILY** met with representatives of the Division of Water Quality (DWQ) and the Division of Oil, Gas and Mines (DOGM) to address the NOV & Order. In this meeting, **NORTH LILY** presented the status of its efforts to accomplish disposal of the excess fluid through evaporation. Representatives from **NORTH LILY** explained that additional misters were installed on the heap leach pad and on the storage ponds to accelerate the evaporation and fluid minimization process. Other issues related to maintenance of storage areas and procedures for closure of the heap leach facility were also discussed.
8. **NORTH LILY** responded to the Order in a written document dated November 24, 1999. The report stated:
  - a. *The company has been aggressively evaporating fluids since August. These efforts have been successful with pond fluid volumes being reduced from approximately 1,000,000 gallons at August 18, 1999 to about 700,000 gallons at September 9, 1999 and less than 100,000 gallons at November 10, 1999. This is less than 10% of the fluid inventory when compared with the period of active leaching. This successful fluid minimization effort is attributed to active fluid management including addition of misters and good weather.*
  - b. *Maintenance to repair the overflow pond liner has been completed as has been the work to repair the spillway between the barren pond and overflow pond.....Repairs have been made to the seam tear in the overflow pond, to other damaged areas in the overflow pond and to the spillway between the barren pond and the overflow pond. The repairs to the spillway from the pad to the pregnant pond have begun and this work will be completed by early December, weather permitting. All repairs are being completed in accordance with the procedures recommended by the liner manufacture and approved adhesive are being used.*
  - c. *Following the liner repair work, solution ditches in the areas of slumps will be dug out with this work scheduled for completion by the end of December 1999.*
9. **NORTH LILY** responded to the Order in a written document, dated November 24, 1999, regarding the Ground Water Contamination Investigation. The report stated:

*Other areas requiring repair including the primary spillway and punctures in the primary liners in the pregnant and barren ponds were identified as requiring repair. North Lily reports that these repairs were completed during December 1999 and that the liners will be inspected and promptly repaired during the remaining life of the facility.*
10. UCA 19-5-115(3) states " Any person who knowingly makes a false statement, representation,

or certification in any application, record, plan, or other document filed or required to be maintained under this chapter, or by any permit, rule, or order issued under it, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this chapter shall be punished by a fine not exceeding \$10,000 or by imprisonment for not more than six months, or both. ”

### **FINDINGS**

1. In the letter dated November 24, 1999, **NORTH LILY** reported that the liner repair at the overflow pond was complete. As of February 25, 2000, Quality Assurance/Quality Control (QA/QC) specifications and verification of the integrity of the restored liner by testing according to QA/QC plans have not been submitted for approval by the Executive Secretary as required in the NOV and Order No. UGW2003.
2. As a result of the November 10, 1999, meeting and **NORTH LILY**'s written report, dated November 24, 1999, an inspection regarding the status of the facility was conducted by the representatives from DWQ and DOGM on December 16, 1999. The inspection was done following **NORTH LILY**'S report and statement that additional misters were installed to accelerate evaporation. The inspection revealed that no additional misters were installed either on the heap leach pad nor on the storage ponds to accelerate evaporation of excess fluid as stated in **NORTH LILY**'S report and statement . This inspection further revealed that there were small liner holes in the spillway from the pad to the pregnant pond. The holes were noticed at the junction of the two solution ditches near the pregnant pond.
3. On February 14, 2000, a follow-up inspection of the facility was conducted by representatives from DWQ and DOGM. The inspection was done following a further report submitted by **NORTH LILY** on January 6, 2000, that reported the completion of repair work of the primary spillway and punctures in the primary liners in the pregnant and barren ponds in December 1999. The inspection revealed that the primary liner in the pregnant pond and the barren pond were not repaired as of February 14, 2000; punctures and tears were noticed on the primary liner of the pregnant pond which is contrary to **NORTH LILY**'s report. It was also noticed that the primary liner of the barren pond was partially peeled off from the sides and was piled in the bottom of the pond.

### **VIOLATIONS**

Based on the foregoing **FACTS** and **FINDINGS**, **NORTH LILY** is in violation of the following:

1. Provisions of ORDER No. UGW2003 addressing maintenance and repair of Discharge

Minimization Technology (DMT), **NORTH LILY** has violated the ORDER by failing to submit QA/QC specifications and plans to restore all three storage ponds.

2. Groundwater Discharge Permit, No.UGW230001, Part I.B, for continued failure to maintain Discharge Minimization Technology (DMT).
3. UCA 19-5-107 (1)(a), for placing or causing to be placed wastes in a location where there is probable cause to believe it will cause pollution.
4. UCA 19-5-115(3), for misrepresenting of facts in response to Order Docket No. UGW2003.

### **ORDER**

**NORTH LILY** is HEREBY ORDERED to:

1. Provide an explanation, within 15 days of the receipt of this ORDER, as to why **NORTH LILY** has not complied with Order Docket No, UGW2003.
2. Submit within 10 days of receipt of this Order Quality Assurance/Quality Control specifications (QA/QC) for all liner repair work conducted to date. Submit specifications and descriptions of liner repair work conducted to date. Before additional modifications to the liners are made, **NORTH LILY** must submit and receive approval from the Executive Secretary of plans and QA/QC specifications to restore DMT.
3. Submit, within 15 days of the effective date of the ORDER for Executive Secretary approval, an excess water management plan. Said plan shall include a procedure describing how **NORTH LILY** will provide for maximum fluid disposal prior to closure of the heap leach and the ponds.
4. Cease and desist utilizing all three storage ponds; the pregnant pond (the barren pond and the overflow pond) within 60 days of this receipt of this ORDER unless they have been restored and approved in accordance with of all provisions of this ORDER. If **NORTH LILY** wants to further utilize any of the three ponds they must first restore DMT in accordance with plans approved by the Executive Secretary.
5. **NORTH LILY** shall permanently decommission two of the three storage ponds, the barren pond and the overflow pond, on or before July 30, 2000. **NORTH LILY** shall submit a report that certifies in writing that this task has been accomplished on or before August 10, 2000.
6. **NORTH LILY** must not place or cause to be placed any wastes in a location where there is

probable cause to believe it will cause pollution; including surface discharge or land application of heap leach fluid without approval from the Executive Secretary.

### NOTICE

UCA 19-5-115 (1)&(2) states "...any person who violates a permit condition implementing provisions of the Act is subject to a civil penalty not to exceed \$10,000 per day of such violation. Any person who willfully or negligently violates permit conditions is subject to a fine not exceeding \$25,000 per day of violation. Any person convicted under Section 19-5-115(2) of the Act a second time shall be punished by a fine not exceeding \$50,000 per day.

In accordance with the provisions of Part IV.4 of the permit, all information submitted shall be signed and make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

Any appeal of the Notice of Violation and Order will be pursuant to UAC R317-1-8 and UCA 63-46b-6 through 63-46b-15. If **NORTH LILY** contests any portion of the Notice of Violation and Order, it must do so in writing and request a hearing before the Board within thirty (30) days of the receipt of this notice. If no response and request for hearing is received, the Notice of Violation and Order shall be considered final.

Signed this 10<sup>th</sup> day of March 2000.

Utah Water Quality Board



Don A. Ostler, P.E.  
Executive Secretary